



Alison A. Minea
Director & Senior Counsel, Regulatory Affairs
(202) 463-3709
Alison.Minea@dish.com

July 31, 2017

VIA ECFS, EMAIL, AND FIRST CLASS MAIL

Jim Grant
General Manager/Associate Minister
Victory Television Network, Inc.
KVTJ-DT Jonesboro/Memphis
P.O. Box 26207
Little Rock, AR 72221-6207

*Re: Updated STELAR Feasibility Certification, Market Modification Pre-Filing Coordination
Letter for KVTJ-DT, MB Docket No. 15-71*

Dear Mr. Grant:

Following on the Petition for Special Relief¹ filed in connection with your letter of March 31, 2016,² DISH Network L.L.C. is submitting the attached Updated Feasibility Certification pursuant to 47 C.F.R. § 76.59(e).

Please contact me if you have any questions.

Sincerely,

Alison Minea

Alison Minea
Director & Senior Counsel, Regulatory
Affairs
DISH Network L.L.C.

Attachment: Updated Feasibility Certification Pursuant to 47 C.F.R. § 76.59(e)

¹ Victory Television Network, Modification of the Satellite Television Market for KVTJ-DT, Jonesboro, Arkansas, Facility Id. No. 2784, MB Docket No. 17-__, filed May 30, 2017.

² Letter from Jim Grant to Alison A. Minea, DISH Network L.L.C., March 31, 2016. The Letter requests information regarding carriage of KVTJ-DT of Jonesboro, Arkansas into eight counties (Cross County, Arkansas; St. Francis County, Arkansas; Woodruff County, Arkansas; Crittenden County, Arkansas; Poinsett County, Arkansas; Mississippi County, Arkansas; Pemiscot County, Missouri; and Dunklin County, Missouri).

UPDATED FEASIBILITY CERTIFICATION PURSUANT TO 47 C.F.R § 76.59(e)

1. This Updated Feasibility Certification is issued by DISH Network L.L.C. (“DISH”) pursuant to the pre-filing coordination procedures contained in the Federal Communications Commission’s (“FCC”) Order¹ governing market modifications for satellite carriers under the STELA Reauthorization Act of 2014 (“STELAR”).²
2. This Updated Feasibility Certification responds to the letter (“Letter”) dated March 31, 2016 from Jim Grant requesting information regarding carriage of KVTJ-DT, Jonesboro, Arkansas into eight counties (Cross County, Arkansas; St. Francis County, Arkansas; Woodruff County, Arkansas; Crittenden County, Arkansas; Poinsett County, Arkansas; Mississippi County, Arkansas; Pemiscot County, Missouri; and Dunklin County, Missouri) (together, the “Counties”). In the intervening time, Victory Television Network, Inc., owner of KVTJ-DT, has filed a Petition for Special Relief formally seeking a market modification consistent with the Letter.³ DISH provides this updated response based upon Media Bureau staff requests and in light of the approach taken in Gray Television Licensee, LLC For Modification of the Satellite Television Market For WSAW-TV, Wausau, Wisconsin, *Memorandum Opinion and Order*, DA 17-74, MB Docket No. 16-293, Jan. 17, 2017 (the “Gray TV Order”).
3. DISH carries KVTJ-DT on spot beams on two different satellites, one located at the 129° W.L. orbital slot (which is in the “Western Arc”) and the other at the 61.5° W.L. orbital slot (which is in the “Eastern Arc”). DISH also provides service from several other orbital slots.
4. The ability of an individual DISH subscriber in each of the Counties to receive KVTJ-DT depends on, among other things, how the subscriber’s individual satellite antenna was originally installed and pointed, and whether that subscriber is predicted to have adequate spot beam coverage from one of our two satellites that carries KVTJ-DT.
5. In general, a DISH customer’s satellite antenna, when installed, is pointed so that it can receive satellite signals from specific orbital slots. Receiving service from orbital slots not planned for in the original equipment installation at the subscriber’s home typically would require DISH to send a truck and technician to adjust equipment or install different equipment, which would impose a very substantial cost burden on DISH.
6. In addition, DISH subscribers who have satellite dishes pointed to receive service from the Western Arc may have either (i) an older set-top box compatible with MPEG-2

¹ *Amendment to the Commission’s Rules Concerning Market Modification, Implementation of Section 102 of the STELA Reauthorization Act of 2014*, Report and Order, MB Docket No. 15-71, FCC 15-111, ¶ 47 (Sept. 2, 2015) (“*Market Modification Order*”).

² STELA Reauthorization Act of 2014 (STELAR), § 102, Pub. L. No. 113-200, 128 Stat. 2059, 2060-62 (2014) (codified at 47 U.S.C. § 338(l)).

³ Victory Television Network, *Modification of the Satellite Television Market for KVTJ-DT, Jonesboro, Arkansas*, Facility Id. No. 2784, MB Docket No. 17-___, filed May 30, 2017 (the “*KVTJ-DT Petition*”).

format satellite signals, or (ii) a newer set-top box compatible with MPEG-4 format satellite signals. On the other hand, DISH subscribers who have satellite dishes pointed to receive service from the Eastern Arc exclusively have MPEG-4 set-top boxes. A DISH subscriber who was originally installed with an MPEG-2 set-top box and whose satellite dish was pointed to receive service from the Western Arc could not be converted to service from the Eastern Arc until, among other possible changes, her satellite dish was repointed or replaced and her set-top box(es) were changed to MPEG-4 compatible versions.

7. For DISH subscribers in each of the Counties, DISH must first determine whether the particular spot beam on each of our two satellites that carry KVTJ-DT provides adequate spot beam coverage. In determining whether a given spot beam covers each of the Counties, DISH evaluates whether the spot beam's signal, as designed by the satellite manufacturer, is predicted to achieve reception and demodulation of the signals at the same availability levels that DISH ordinarily uses to assess spot beam coverage for the local markets to which DISH provides service. In so doing, DISH has "conducted this analysis in substantially the same manner and using substantially the same parameters used to determine the geographic area in which it currently offers stations carried on the spot beam."⁴ The calculation methodology takes into account the following principal parameters: (i) the uplink and downlink portions of the end-to-end satellite signal, (ii) rain loss using the International Telecommunication Union ("ITU") 618.6 rain rate data and ITU rain region boundaries, (iii) atmospheric loss, (iv) carrier to interference ratio ("C/I") terms due to adjacent satellite interference, (v) C/I terms due to aggregate adjacent beam interference, (vi) cross polarization degradation, (vii) forward error correction, and (viii) modulation.
8. As an initial matter, in each of the Counties, there is a subset of subscribers who have satellite dishes that are not pointed to receive satellite signals from any satellite that currently transmits KVTJ-DT. For example, there are DISH subscribers in each of the Counties who receive service *only* from the 110° and 119° W.L. orbital slots, and not either 129° W.L. or 61.5° W.L. Therefore, it is "technically infeasible" pursuant to 47 C.F.R. § 76.59(e) to serve such customers with their current equipment, and it would be "economically infeasible" pursuant to 47 C.F.R. § 76.59(e) if DISH were required to bear the cost burden to send a truck and a technician to each such subscriber's home to re-point or replace the satellite antenna, and (if needed) provide a different set-top box. Any FCC grant of market modification in this proceeding would thus need to include, at least, the approach taken in the *Gray TV Order* governing instances where customers would need to choose whether to make time to accommodate a service visit and potentially pay to upgrade their satellite antenna and/or set-top boxes in order to receive KVTJ-DT.⁵

⁴ *Market Modification Order* ¶ 41.

⁵ "DISH also explains that it has a second group of customers in Iron and Ashland Counties who, though their households are covered by the relevant spot beam, do not currently receive service from it. Although it is not entirely clear from DISH's filings, it appears that this is largely because subscribers to DISH [[redacted]] local service in Iron and Ashland Counties receive their local broadcast signals from a spot beam on a different satellite in a different orbital location from the one that carries WSAW. Some subscribers apparently also rely on equipment that would not be able to process any video signals from

9. Other DISH subscribers may be able to receive KVTJ-DT from one of our two satellites that carries it. Each of the Counties is more or less different with respect to spot beam coverage from the Western Arc and Eastern Arc satellites that carry KVTJ-DT. One of the Counties has no coverage from either the Eastern or Western Arc satellite spot beams that carries KVTJ-DT, others have coverage from one satellite spot beam but not both, and others still have only partial coverage from one or both satellite spot beams.

- a. **Cross County:** Apart from the DISH subscribers described in paragraph 8, some DISH subscribers in Cross County have a satellite dish that is pointed to receive from satellites located in the Eastern Arc, while others are pointed to receive from Western Arc satellites. The Eastern Arc satellite spot beam that currently carries KVTJ-DT probably has sufficient coverage of Cross County, but Cross County is outside the coverage area for the spot beam on the Western Arc satellite that currently carries KVTJ-DT. If a DISH subscriber in this county wanted to switch from the Western Arc to the Eastern Arc for the purpose of being able to receive KVTJ-DT, that subscriber would likely require both (i) a satellite dish re-pointing or a different satellite dish and (ii) a different set-top box (or multiple different set-top boxes if the subscriber has multiple TVs) if the customer did not already have MPEG-4 compatible equipment. If the FCC grants a market modification authorizing satellite delivery of KVTJ-DT to Cross County, it must, at least, clarify that the *Gray TV* approach referenced in paragraph 8 applies to any customers that receive service from the Western Arc and thus will be unable to receive KVTJ-DT unless they choose to make time to accommodate a service visit and potentially pay to upgrade their satellite antenna and/or receivers to switch to the Eastern Arc.

the spot beam carrying WSAW, even if their dish antenna was reoriented. Other subscribers may not receive service from the spot beam because of their service package, and some currently may not be able to receive the Station's signal due to some combination of these factors. According to DISH, in order to receive WSAW, these subscribers would need a new set top box or boxes, a new dish antenna or antennas, reorientation of their current dish antenna, or in some cases more than one of these changes. DISH argues that the expense of truck rolls, and in some cases new equipment, for those subscribers renders the market modification as a whole infeasible.

We find that the potential costs DISH identifies for providing the small number of subscribers in this second group with access to WSAW do not amount to technical or economic infeasibility. The *[[redacted]]* DISH local-into-local subscribers at issue are served by the relevant spot beam, even if they are not currently able to access programming from that spot beam. Based on the information provided by DISH, we find that the costs associated with providing those customers who do not currently have access to the spot beam with such access are low enough that serving them is not technically or economically infeasible. Indeed, DISH estimates that, even for the few customers requiring the most expensive upgrades, the total cost would be *[[redacted]]*. Nonetheless, we recognize that a service change, particularly one involving a service visit and potential new equipment, could create some burden on the few subscribers in this second group. Therefore, if DISH ultimately carries WSAW after the grant of this Petition, it must do so immediately for subscribers in the first group and new subscribers, but may roll out service at a more measured, non-dilatory pace to existing subscribers in this second group.” *Gray TV Order ¶¶ 19-20.*

- b. **St. Francis County** is outside the coverage area for the spot beams on both the Eastern Arc and the Western Arc satellites that currently carry KVTJ-DT. It is, therefore, “technically infeasible” pursuant to 47 C.F.R. § 76.59(e) for DISH to offer KVTJ-DT to St. Francis County customers.
- c. **Woodruff County:** Apart from the DISH subscribers described in paragraph 8, some DISH subscribers in Woodruff County, Arkansas have a satellite dish that is pointed to receive from satellites located in the Eastern Arc, while others are pointed to receive from Western Arc satellites. The Eastern Arc satellite spot beam that currently carries KVTJ-DT probably has sufficient coverage of Woodruff County, but Woodruff County is outside the coverage area for the spot beam on the Western Arc satellite that currently carries KVTJ-DT. If a DISH subscriber in this county wanted to switch from the Western Arc to the Eastern Arc for the purpose of being able to receive KVTJ-DT, that subscriber would likely require both (i) a satellite dish re-pointing or a different satellite dish and (ii) a different set-top box (or multiple different set-top boxes if the subscriber has multiple TVs) if the customer did not already have MPEG-4 compatible equipment. If the FCC grants a market modification authorizing delivery of KVTJ-DT to Woodruff County, it must, at least, clarify that the *Gray TV* approach referenced in paragraph 8 applies to any customers that receive service from the Western Arc and thus will be unable to receive KVTJ-DT unless they choose to accommodate a service visit and potentially pay to upgrade their satellite antenna and/or receivers to switch to the Eastern Arc.
- d. **Crittenden County:** Apart from the DISH subscribers described in paragraph 8, some DISH subscribers in Crittenden County have a satellite dish that is pointed to receive from satellites located in the Eastern Arc, while others are pointed to receive from Western Arc satellites. The Eastern Arc satellite spot beam that currently carries KVTJ-DT is predicted to achieve only partial coverage of Crittenden County, and Crittenden County is outside the coverage area for the spot beam on the Western Arc satellite that currently carries KVTJ-DT. If a DISH subscriber in this county was outside the partial coverage area for the Western Arc spot beam and wanted to switch to the Eastern Arc for the purpose of being able to receive KVTJ-DT, and assuming the subscriber was inside the partial coverage area for the Eastern Arc spot beam, that subscriber would likely require both (i) a satellite dish re-pointing or a different satellite dish and (ii) a different set-top box (or multiple different set-top boxes if the subscriber has multiple TVs) if the customer did not already have MPEG-4 compatible equipment. It is, therefore, “technically infeasible” pursuant to 47 C.F.R. § 76.59(e) for DISH to offer KVTJ-DT Crittenden County customers that are outside a spot beam that carries the station. With respect to the Crittenden County customers that have adequate spot beam coverage from the Eastern Arc satellite that carries KVTJ-DT, if the FCC grants a market modification authorizing delivery of KVTJ-DT to such customers in Crittenden County, it must, at least, clarify that the *Gray TV* approach referenced in paragraph 8 applies to any

customers that will need to choose to accommodate a service visit and potentially pay to upgrade their satellite antenna and/or receivers to switch to the Eastern Arc.

- e. **Poinsett County:** Apart from the DISH subscribers described in paragraph 8, some DISH subscribers in Poinsett County have a satellite dish that is pointed to receive from satellites located in the Eastern Arc, while others are pointed to receive from Western Arc satellites. The Eastern Arc satellite spot beam that currently carries KVTJ-DT probably has sufficient coverage of Poinsett County, while the Western Arc satellite spot beam that currently carries KVTJ-DT is predicted to achieve only partial coverage of Poinsett County. It is, therefore, “technically infeasible” pursuant to 47 C.F.R. § 76.59(e) for DISH to offer KVTJ-DT to any Poinsett County customers that are outside the spot beam for any satellite that carries KVTJ-DT. If a DISH subscriber in this county were outside the partial coverage area for the Western Arc spot beam but inside the Eastern Arc spot beam, and wanted to switch to the Eastern Arc for the purpose of being able to receive KVTJ-DT, that subscriber would likely require both (i) a satellite dish re-pointing or a different satellite dish and (ii) a different set-top box (or multiple different set-top boxes if the subscriber has multiple TVs) if the customer did not already have MPEG-4 compatible equipment. If the FCC grants a market modification authorizing delivery of KVTJ-DT to Poinsett County, it must, at least, clarify that the *Gray TV* approach referenced in paragraph 8 applies to any customers that receive service from the Western Arc and thus will be unable to receive KVTJ-DT unless they choose to accommodate a service visit and potentially pay to upgrade their satellite antenna and/or receivers to switch to the Eastern Arc.
- f. **Mississippi County:** Apart from the DISH subscribers described in paragraph 8, some DISH subscribers in Mississippi County have a satellite dish that is pointed to receive from satellites located in the Eastern Arc, while others are pointed to receive from Western Arc satellites. The Eastern Arc satellite spot beam that currently carries KVTJ-DT probably has sufficient coverage of Mississippi County, while the Western Arc satellite spot beam that currently carries KVTJ-DT is predicted to achieve only partial coverage of Mississippi County. If a DISH subscriber in this county were outside the partial coverage area for the Western Arc spot beam and wanted to switch to the Eastern Arc for the purpose of being able to receive KVTJ-DT, that subscriber would likely require both (i) a satellite dish re-pointing or a different satellite dish and (ii) a different set-top box (or multiple different set-top boxes if the subscriber has multiple TVs) if the customer did not already have MPEG-4 compatible equipment. If the FCC grants a market modification authorizing delivery of KVTJ-DT to Mississippi County, it must, at least, clarify that the *Gray TV* approach referenced in paragraph 8 applies to any customers that receive service from the Western Arc and thus will be unable to receive KVTJ-DT unless they choose to accommodate a service visit and potentially pay to upgrade their satellite antenna and/or receivers to switch to the Eastern Arc.

- g. **Pemiscot County and Dunklin County:** Apart from the DISH subscribers described in paragraph 8, some DISH subscribers in these two counties have a satellite dish that is pointed to receive from satellites located in the Eastern Arc, while others are pointed to receive from Western Arc satellites. Both the Eastern Arc and Western Arc satellite spot beams that currently carry KVTJ-DT probably have sufficient coverage of both counties.
10. As the above analysis shows, providing KVTJ-DT to the Counties would create a complex patchwork of different customer scenarios. Among other things, DISH would need to parse its subscribers into different groups depending on whether they are pointed to the Western Arc or Eastern Arc satellite (or neither one) that carries KVTJ-DT. From there, DISH would need to sort again based on spot beam coverage. DISH would need to make, among other things, operational and billing changes in an attempt to manage these many different cases. And attempting to target the provision of KVTJ-DT to the subset of DISH subscribers in certain counties who might be able to receive it would cause customer confusion. For example, one DISH subscriber might be able to receive KVTJ-DT while her neighbor could not.
11. DISH reserves all rights and continues to assert that the scenario presented in KVTJ-DT's Letter more than meets the threshold for technical infeasibility or economic infeasibility or both (depending on the individual county) pursuant to 47 C.F.R. § 76.59(e). However, if the FCC decides to grant the *KVTJ-DT Petition*, it must, at least, apply the *Gray TV* approach in the manner noted herein.
12. DISH reserves the right to amend this Updated Feasibility Certification at any time due to, among other things, a satellite equipment failure or a different satellite or satellites being brought into service for the area that includes the Counties which has different coverage capabilities than the satellites currently being used.
13. To the extent that KVTJ-DT were to elect retransmission consent with respect to DISH for carriage of its station any of the Counties, DISH cannot be certain whether it will be able to successfully reach an agreement with the station.

The foregoing has been prepared using facts of which I have personal knowledge or upon information provided to me. I certify under penalty of perjury that the foregoing is true and correct to the best of my current knowledge, information, and belief.



Alison Minea
DISH Network L.L.C.

Executed on July 31, 2017